

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Roy and Josie Fisher, et al.,

Plaintiffs,

v.

United States of America,

Plaintiff-Intervenor,

v.

Anita Lohr, et al.,

Defendants,

and

Sidney L. Sutton, et al.,

Defendants-Intervenors,

CV 74-90 TUC DCB  
(Lead Case)

Maria Mendoza, et al.,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

v.

Tucson Unified School District No. One, et al.,

Defendants.

CV 74-204 TUC DCB  
(Consolidated Case)

1        **SUPPLEMENTAL REPORT AND RECOMMENDATION AMENDING**  
2        **THE FEBRUARY 21, 2017 REPORT REGARDING TRANSITION PLAN**

3            On February 14, 2017, the Mendoza plaintiffs replied to TUSD's responses to the  
4        plaintiffs' and Special Master's comments on transition plans for magnet schools (*see* Exhibit A).  
5        While this set of comments did not add new objections to the plans, the Mendoza plaintiffs placed  
6        emphasis on six issues, two of which – school integration and narrowing the achievement gap –  
7        are high priorities for the Mendoza plaintiffs. The Special Master did not comment on these two  
8        concerns in his R&R. This amendment to the R&R submitted by the Special Master on February  
9        21, 2017 seeks to remedy this omission.  
10       

11        **Integration**

12            The transition plans were developed for six schools that are losing magnet status. Magnet  
13        status is being withdrawn because these schools, despite considerable effort over several years,  
14        have been unable to achieve integration that meets the standards set forth in the USP. Had there  
15        been a good probability that further investments would have resulted in integration, withdrawal of  
16        magnet status would not have been recommended by the Special Master and approved by the  
17        Court.  
18       

19            The District has not been successful in its efforts to promote integration. But, if it is to be  
20        successful, it should invest in efforts that have some reasonable chance of success. It does not  
21        seem that the strategic allocation of resources for the purposes of integration should focus on  
22        schools that have been unsuccessful in achieving that goal.  
23       

24            The Court should not require the District to amend the transition plans to include  
25        investments in integration. Arguably, the best investment that schools involved could make that  
26        would attract white and African American teach students would be to improve the academic  
27        performance of the students in those schools. Which is what the District seeks to do.  
28

1 **Narrowing the Achievement Gap**

2       There are two ways to narrow the achievement gap. The first is to improve the academic  
3 performance of students who are performing at the lowest levels in the schools in the District.  
4 The second is to undermine the performance of students who are performing at the highest levels.  
5 The second option, obviously, is not acceptable.  
6

7       The District agreed with the goal of narrowing the achievement gap when it approved the  
8 Comprehensive Magnet Plan in which narrowing the achievement gap is specifically identified as  
9 one of the obligations of the District. The District should be held accountable for achieving that  
10 goal.  
11

12       The fact that the District did not use those terms in this discussion does not mean that it  
13 has failed to focus attention on enhancing the achievement of the lowest performing students.  
14 Indeed, it has explicitly done that. Whether the strategies that it proposes are the best ones that  
15 could have been adopted is not being challenged by the Mendoza plaintiffs. In his R&R, the  
16 Special Master indicated why it would be difficult for the Court to define a set of strategies  
17 different from those advocated by the District.  
18

19       Given that the District is already obligated to narrow the achievement gap, having it say  
20 that that is one of its goals seems unnecessary. If what is being asked by the Mendoza plaintiffs  
21 is that the substance of plans should be amended, the consequence would be to recycle the  
22 planning process and undermine the already problematic implementation of the transition plans.  
23 The Court should not require the District to amend its transition plans to identify narrowing the  
24 achievement gap as one of its goals.  
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26                               Respectfully submitted,

27                               \_\_\_\_\_  
28                               /s/  
                                  Willis D. Hawley

Special Master

Dated: February 23, 2017

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**CERTIFICATE OF SERVICE**

I hereby certify that on, February 23, 2017, I electronically submitted the foregoing  
**SUPPLEMENTAL REPORT AND RECOMMENDATION AMENDING THE FEBRUARY 21 REPORT  
REGARDING TRANSITION PLAN** for filing and transmittal of a Notice of Electronic Filing to the  
following CM/ECF registrants:

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Andrew H. Marks for  
Dr. Willis D. Hawley,  
Special Master